DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (JP10103089) in view of SIAM (GB655467).

1-2. Suzuki teaches a method of assembling a gasket (8), the method comprising fitting a gasket into a fitting groove formed in the face of a throttle body (3) having a throttle bore extending therebetween and encircling opposite ends of the throttle bore *(see Figure 1)*, the throttle body and an intake manifold (4) having confronting faces *(see Figure 1)*, and the gasket is compressed when the throttle body is assembled with the intake manifold *(see Figure 1, Abstract, and note it is obvious that the intake duct is connected to the intake manifold)*, where the faces are oblique *(see the confronting*

faces at 16, which is parallel to member 3b and is clearly oblique as compared to the straight line shown in 3a) and provides a seal, the method further comprising: fitting the gasket (8) into a fitting groove *(see Figure 1)*, the gasket (8) being in sliding contact with the intake manifold (4) *(see Figure 1)*.

Suzuki fails to teach the gasket (8) having a generally pentagonal shape having two inclined faces and a leading end in close contact with the intake manifold then in sliding contact with the intake manifold.

SIAM teaches a method of assembling a gasket, the gasket being formed into a generally pentagonal shape having two inclined faces forming a section of an angle shape and a leading end of a round section and a bottom face in contact with the groove, wherein the gasket body is fitted in a groove *(see Figure 3 and page 2 lines 70-76)*, where the leading end of the two inclined faces into contact with only the close contact face of the other member *(see Figure 3 and page 2 lines 99-117)* and wherein the leading end is in sliding contact with the close contact face *(see Figure 8 and page 3 lines 2-25, where it discloses the gasket being in sliding contact with the other member and deforming sideways into the by the relative movement of the two members)*.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a pentagonal shaped gasket onto the intake manifold of Suzuki,

as taught by SIAM, because it allows for slight deformation of the gasket to provide a strong, reliable high pressure seal *(see SIAM page 1lines 11-27)*.
Furthermore, it would have been obvious to assemble the gasket by close contact then sliding contact with the intake manifold, as taught by SIAM, because it allows for gradual building of pressure and to allow for a slight distortion to improve its sealing properties *(see SIAM page 3 lines 2-33)*.

3. Suzuki/SIAM teach the method of claim 2 wherein a corner portion of the generally pentagonal section is located on the downstream side in the direction of relative movement of the intake manifold *(see Suzuki Figure 1)* and a side face between the corner portion and the bottom face make close contact with the groove side wall of the fitting groove *(see SIAM Figure 4)*.

Response to Arguments

Applicant's arguments filed 03/19/2010 have been fully considered but they are not persuasive.

Applicant argues that it would be difficult to combine Siam and Suzuki, indicating that they are pushed in a different manner into their respective bores.

This is not found persuasive because both involve an assembly having bores containing gasket members and inserting the assembly into a bore member, therefore they are very similar in their assembly. Furthermore, Siam is used to teach a specific gasket shape and a method for inserting the assembly to limit distortion *(see Siam page 1 lines 11-27 and page 3 lines 2-33)*, therefore the direction of insertion is irrelevant to

the combination. The concept of Siam to slowly insert the assembly to allow for slight distortion may be used in an gasket assembly to improve its sealing properties.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER P. TAOUSAKIS whose telephone number is (571)272-3497. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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